

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF RHODE ISLAND**

**IN RE:           The Newport Creamery Inc.  
                  Debtor**

**Case No.: 01-13196  
             Chapter**

**MOTION TO COMPEL ASSUMPTION OR REJECTION OF  
UNEXPIRED LEASE; AND MEMORANDUM OF LAW  
IN SUPPORT THEREOF**

Ford Motor Credit Company, through its attorneys, respectfully states as follows:

1. This is a motion pursuant to 11 U.S.C. §362(d) and Bankruptcy Rule 4001 for relief from the automatic stay.
2. On June 25, 2001, debtor filed a petition for relief under Chapter 7 of the Bankruptcy Code.
3. Ford Motor Credit Company is the owner of a 1999 Mercury Sable with a VIN #1MEFM53S4XA663261 ("Vehicle"). On September 21, 1999, the debtor executed a lease, pursuant to which the debtor leased Vehicle (Exhibit A hereto). The Vehicle's certificate of title identifies Ford Motor Credit Company as the "Vehicle Owner(s)".
4. The debtor has been in default of its obligations under the lease since June 21, 2001, and Ford Motor Credit Company is entitled by the terms of said lease to retake possession of Vehicle but 11 U.S.C. §362(a) prevents Ford Motor Credit Company from exercising this or other remedies available to it.
5. The debtor is in possession of the Vehicle.
6. The debtor's obligations under the lease for the Vehicle exceeds \$12,419.55 and said indebtedness is now due and owing in full.
7. On information and belief, the Vehicle is depreciating in value.
8. The debtor should be compelled to assume or reject said lease on the grounds that:

A. The debtor is using the vehicle but has not performed his obligations under the lease, either when due under the lease or within any other time set by this Court.

B. Default under the lease remains uncured, and Ford Motor Credit Company has not received any adequate assurance that same will be promptly be cured. Ford Motor Credit Company believes the debtor has no ability to cure or give such adequate assurance.

C. Ford Motor Credit Company has suffered pecuniary loss to the vehicle but Ford Motor Credit Company has received neither compensation therefore nor adequate assurance of prompt compensation. Ford Motor Credit Company believes the debtor has no ability to compensate Ford Motor Credit Company or give such adequate assurance.

D. Ford Motor Credit Company has not received adequate assurance of future performance under the lease. Ford Motor Credit Company believes the debtor has no ability to give such adequate assurance.

E. The debtor's interest in the Vehicle is of inconsequential value to the debtor, and the lease is burdensome to the debtor.

F. Ford Motor Credit Company does not have adequate protection for its interest in the Vehicle.

9. If the debtor does not take affirmative action to assume or reject the lease within a specified time, then the value of the Vehicle will deteriorate and decrease through wear and tear and/or inadequate care and deterioration of the Vehicle.

10. Ford Motor Credit Company makes this motion without prejudice to its Motion for Relief from the Automatic Stay filed in this case.

WHEREFORE, Ford Motor Credit Company prays that this Court:

A. Permit Ford Motor Credit Company to (i) retake possession of the Vehicle and exercise all other remedies available to it under the lease or applicable law and (ii) if Ford Motor Credit Company so desires, relet the Vehicle;

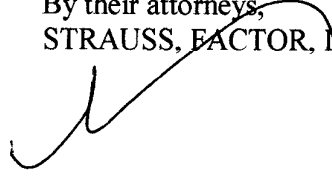
B. Order the debtor to assume or reject the lease within ten (10) days.

C. Award to Ford Motor Credit Company such other and further relief as this Court deems appropriate.

FORD MOTOR CREDIT COMPANY

By their attorneys,

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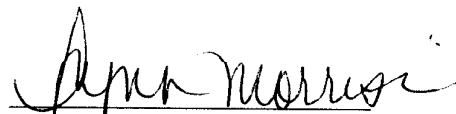
Dated: October 26, 2001

Within ten (10) days after service (twenty (20) days U.S. Government Officers and Agencies thereof), any party against whom a pleading is filed or any other party to the action who objects to the relief sought therein, shall serve and file an objection to that pleading. If no objection is filed to a pleading within the time herein prescribed, the pleading will be deemed unopposed and will be granted, unless one (1) the requested relief is prohibited by law; or (2) the requested relief is against public policy; or (3) in the opinion of the Court the interest of justice requires sua sponte denial of the unopposed motion.

CERTIFICATION

See Attached Exhibit A

I hereby certify that I mailed a true copy of the motion to compel from stay to the above mentioned on October 26, 2001.

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